



IN THE SUPREME COURT OF THE STATE OF DELAWARE

EUDALDO NAVARRO,	§
	§ No. 32, 2020
Defendant Below,	§
Appellant,	§
	§
v.	§ Court Below–Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID No. 1709006495 (N)
Plaintiff Below,	§
Appellee.	§

Submitted: March 3, 2020

Decided: March 5, 2020

Before **SEITZ**, Chief Justice; **VALIHURA**, and **MONTGOMERY-REEVES**, Justices.

**ORDER**

Upon consideration of the notice to show cause and the appellant's response, it appears to the Court that:

(1) On January 23, 2020, the Court received Eudaldo Navarro's notice of appeal from a December 16, 2019 Superior Court order denying his motion for sentence modification. To be timely filed, the notice of appeal had to be received by the Clerk or a Deputy Clerk in any county on or before January 15, 2020.<sup>1</sup>

---

<sup>1</sup> Del. Supr. Ct. R. 6(a); Del. Supr. Ct. R. 10(a); Del. Supr. Ct. R. 11(a).

(2) A notice of appeal must be timely filed to invoke the Court’s appellate jurisdiction.<sup>2</sup> The jurisdictional defect created by the untimely filing of a notice of appeal cannot be excused unless the appellant can demonstrate that the delay in filing is attributable to court-related personnel.<sup>3</sup>

(3) On January 24, 2020, the Senior Court Clerk issued a notice directing Navarro to show cause why his appeal should not be dismissed as untimely. Navarro filed a response to the notice to show cause, stating that he had an appointment at the law library and filled out the paperwork necessary to file a notice of appeal. However, Navarro maintains that he did not receive his inmate account statement—which he needed in order to complete his motion to proceed *in forma pauperis*—from the Department of Correction business office until January 17, 2020.

(4) In this case, the Court directed the State to respond to Navarro’s response to the notice to show cause. The State responded, noting that Navarro’s prison mail log indicates that he received mail from the Superior Court—presumably, the Superior Court’s December 16, 2019 order—on December 23, 2019, and, therefore, Navarro had more than three weeks to file a timely notice of appeal in this Court.

---

<sup>2</sup> *Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>3</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

(5) We conclude that Navarro's response to the notice to show cause does not provide a basis for excusing his untimely filing of the notice of appeal. A notice of appeal must be received by the Court within the applicable time period to be effective.<sup>4</sup> Prison personnel, including employees of the business office, are not court-related personnel.<sup>5</sup> Because the record does not reflect that Navarro's failure to file a timely notice of appeal is attributable to court-related personnel, the appeal must be dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.  
Chief Justice

---

<sup>4</sup> Del. Supr. Ct. R. 10(a).

<sup>5</sup> *Roy v. State*, 2014 WL 2957264, at \*1 (Del. June 27, 2014).